

BEFORE  
THE PUBLIC SERVICE COMMISSION OF  
SOUTH CAROLINA  
DOCKET NO. 93-670-W/S - ORDER NO. 95-149<sup>✓c</sup>  
JANUARY 26, 1995

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| IN RE: Application of Mountain Bay Estates<br>Utility Company, Inc. for Approval of<br>an Increase in Rates and Charges for<br>Water and Sewer Services. | ) ORDER<br>) DENYING<br>) APPROVAL<br>) OF BOND |
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This matter comes before the Public Service Commission of South Carolina (the Commission) on the January 18, 1995 proposal of Mountain Bay Utility Company, Inc. (Mountain Bay) to post a sufficient bond to allow it to place a rate schedule into effect under bond, pending the appeal of this matter. S.C. Code Ann. §58-5-240(D) makes provision for a utility putting a requested, but denied, rate schedule into effect under bond during an appeal. The statute states that the bond must be a reasonable amount approved by the Commission with sureties approved by the Commission, among other things. The Commission has examined this matter and believes that the surety in the proposal is improper, and therefore denies approval of the bond.

Mountain Bay states through its attorney's letter of January 18, 1995 that under its bonding plan, the annual billing of current approved rates, that is \$8.00 per month for combined residential water and sewer service, will continue as it has in the past. Customers will be separately invoiced monthly for the amount of the proposed increase, which is an additional \$42 per month. Mountain Bay alleges that these monthly payments for water and sewer will be

made directly by the Mountain Bay customers to a lock box account established with BB&T Bank in the name of the South Carolina Public Service Commission. According to Mountain Bay, it will have no signature authority on this account, funds of which will be accessible solely by the Commission. BB&T will provide to Mountain Bay monthly account statements and all documentation received from the customers. This documentation would be made available to the Commission upon request. BB&T would retain the amounts placed in the account pending final order of the Court addressing Mountain Bay's appeal.

Mountain Bay further states that it shall have the right to enforce the customers payment obligations pursuant to the Commission's Rules and Regulations. However, any collections or late payments relating to the increased amount shall be made by the customer directly to BB&T pursuant to the arrangement outlined above.

Although Mountain Bay alleges that the proposed lock box arrangement will fully protect Mountain Bay customers during the pendency of the appeal, this Commission disagrees. We find that a monthly billing of customers for the amount above and beyond the granted rate to the amount of the appeal rate is an insufficient surety to protect the customers. If a customer does not pay the increased amount, we agree that Mountain Bay would have the right to follow Commission Procedure and end the service to that customer, however, such termination of that service would not produce the additional amount of money necessary to equal the increased rate put into effect by the Company. If more than a few

customers allowed their service to be terminated due to non-payment of the additional amounts, the lock box amount would be deficient in funds, compared to the increased rate being charged by the Company to its customers under bond. Therefore, we believe that the lock box system inadequately protects the Company's customers, and is an insufficient surety. Because S.C. Code Ann. §58-5-240(D) gives this Commission the right to approve any sureties on the bond, we believe that the surety in this case is inadequate to protect the customers. For this reason, we deny approval of Mountain Bay's bond. This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:

  
Chairman

ATTEST:

  
Executive Director

(SEAL)